



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 18, 2011

Mr. David S. Jeans  
Counsel for City of El Paso  
Ray, Valdez, McChristian & Jeans  
5822 Cromo Drive  
El Paso, Texas 79912

OR2011-06989

Dear Mr. Jeans:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 418393.

The City of El Paso (the "city"), which you represent, received a request for information pertaining to a particular mediation. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.137 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information made confidential by other statutes, such as section 154.073 of the Civil Practice and Remedies Code, which states in pertinent part:

(a) Except as provided by Subsections (c), (d), (e), and (f), a communication relating to the subject matter of any civil or criminal dispute made by a participant in an alternative dispute resolution procedure, whether before or after the institution of formal judicial proceedings, is confidential, is not subject to disclosure, and may not be used as evidence against the participant in any judicial or administrative proceeding.

(b) Any record made at an alternative dispute resolution procedure is confidential, and the participants or the third party facilitating the procedure

may not be required to testify in any proceedings relating to or arising out of the matter in dispute or be subject to process requiring disclosure of confidential information or data relating to or arising out of the matter in dispute.

Civ. Prac. & Rem. Code § 154.073(a), (b). You claim the submitted information is confidential under section 154.073. You contend that this record consists of an e-mail that was created by a mediator and is related to the subject matter of the civil dispute at issue in the mediation. You inform us that this record pertains to a dispute resolution procedure in which the city was a participating party. Based on your representations and our review of the information, we agree the submitted e-mail consists of a communication relating to the subject matter of a dispute made by a participant in an alternative dispute resolution procedure. Thus, this information is confidential under section 154.073 of the Civil Practice and Remedies Code and must be withheld under section 552.101 of the Government Code.<sup>1</sup>

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Christina Alvarado  
Assistant Attorney General  
Open Records Division

CA/eb

Ref: ID# 418393

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)

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<sup>1</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure.